

**STATE OF CALIFORNIA  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
MINUTES OF THE PUBLIC MEETING & CLOSED SESSION  
Held on March 18, 2015  
Sacramento, California**

**PRESENT:**

Art Carter, Chair  
Ed Lowry, Member  
Judith Freyman, Member  
Kari Johnson, Executive Officer  
Jeff Mojcher, Chief Counsel  
Ursula Clemons, Presiding Administrative Law Judge  
Neil Robinson, Administrative Law Judge  
Aaron Jackson, Industrial Relations Counsel  
Autumn Gonzalez, Industrial Relations Counsel  
Judy Whitall Lee, Staff Services Manager  
Lee Berlin, Executive Secretary  
Kevin Bland, Ogletree Deakins  
Marti Fisher, California Chamber of Commerce  
Daniel Leacox, Greenberg Traurig LLP  
Nicole Marquez, Worksafe  
Jora Trang, Worksafe  
Bruce Wick, CALPASC

**MINUTES OF MARCH 4, 2015 MEETING:**

*(Approve or amend minutes of previous Board meeting)*

ACTION: Member Lowry moved that the Board approve the draft minutes of the March 4, 2015 Board meeting. Member Freyman seconded. The Board voted to approve the draft minutes of the March 4, 2015 Board meeting.

**ADMINISTRATIVE MATTERS:**

*(Information and discussion regarding the general administration of cases pending before the Appeals Board)*

**APPEALS VOLUME REPORT:**

*(Appeals volume statistics for prior month and year to date)*

ACTION: No report

**EXPEDITED PROCEEDINGS**

*(Report on general administration of expedited proceedings)*

ACTION: No report

**HEARING CALENDAR REPORT:**

*(Review and discuss statistical information)*

ACTION: No report

**NEW BUSINESS:**

*(The Appeals Board hears and discusses new reports presented by staff.)*

ACTION: No report.

**OLD BUSINESS:**

OASIS PROJECT:

ACTION: No report.

RULEMAKING:

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

ACTION: The Board discussed each item in the DRAFT regulations package and listened to comments from the members of the public in attendance. Stakeholders are also urged to submit their comments in writing to the Board. Chair Carter suggested that Members Lowry and Freyman work individually with stakeholder groups to help answer any remaining questions or concerns.

**LEGISLATION:**

*(Review and discuss current legislation which may affect the Appeals Board)*

ACTION: No report

**CHAIRPERSON'S REPORT:**

*(Chair's report of activities and issues affecting the Appeals Board.)*

ACTION: No report

**BOARD MEMBERS' REPORTS:**

*(Hear reports from Board Members on activities and issues affecting the Appeals Board.)*

ACTION: No report.

**EXECUTIVE OFFICER'S REPORT:**

*(Report regarding administrative matters)*

ACTION: No report.

**STAFF REPORTS:**

*(Reports from the Presiding ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

ACTION: No report.

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

**PUBLIC COMMENT:**

*(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)*

ACTION: No report.

The Board recessed to its Closed Session.

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

U.S. DEMOLITION, INC., 13-R3D2-2407

ACTION: Member Lowry moved that the Board approve this Decision of an Administrative Law Judge. Member Freyman seconded the motion. The Board voted to approve this Decision of an Administrative Law Judge.

**PETITIONS FOR RECONSIDERATION:**

FLEETLOGIX, INC., 14-R4D1-1252

ACTION: Member Lowry moved that the Board vote to accept the Legal Unit's recommendation to deny this Petition for Reconsideration. Member Freyman seconded. The Board voted to accept the Legal Unit's recommendation to deny this Petition for Reconsideration.

GRACIANA TORTILLA FACTORY, 15-R4D3-9010

ACTION: This matter will be considered at the next Board meeting.

GONZALO OLASCOAGA, 13-R6D5-2097 AND 2098

ACTION: Member Lowry moved that the Board grant this Petition for Reconsideration. Member Freyman seconded. The Board voted to grant this Petition for Reconsideration.

STANISLAUS FOOD PRODUCTS., CO 13-R2D4-0572

ACTION: This matter was placed on the agenda in error. It will be considered at the next meeting of the Board.

**DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):**

PAUL DOMINGUEZ, BUILDING CONTRACTOR INC., 14-R6D7-9193

ACTION: Member Lowry moved that the Board vote to approve this draft Denial of Petition for Reconsideration for signature. Member Freyman seconded. The Board voted to approve this draft Denial of Petition for Reconsideration for signature.

**MATTERS INVOLVING LATE APPEALS:**

*(These are matters such as orders dismissing appeal, orders granting leave to file late appeal and orders denying leave to file late appeal)*

CALIFORNIA DRYWALL AND PLASTER, INC., DBA BEST DRYWALL

ACTION: Member Lowry moved that the Board vote to reconsider this matter on its own motion. Member Freyman seconded. The Board voted

to reconsider this matter on its own motion.

**ORDERS DISMISSING APPEAL:**

FLEETLOGIX, INC., 14-R4D1-1252

GANG NAM STYLES, INC., 14-R6D5-0464 THROUGH 0467

ACTION: Member Lowry moved that the Board approve these Orders Dismissing Appeal from Administrative Law Judges. Member Freyman seconded. The Board voted to approve these Orders Dismissing Appeal from Administrative Law Judges.

**MATTERS HELD OVER FROM PREVIOUS MEETINGS:**

*(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)*

**MATTERS PENDING RECONSIDERATION:**

*(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)*

A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (ER)  
A TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 11-R5D1-1895 (DOSH)  
B.A.R.T., 11-R2D2-3137 THROUGH 3139 (ER)  
BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1218 THROUGH 1221 (DOSH)  
RANDALL JOHN BILLINGTON, 2014-R3D3-9170  
CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662  
CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038  
INTERNATIONAL PAPER COMPANY, 14-R2D5-1189 THROUGH 1191  
LANGER FARMS, LLC, 13-R4D7-231 THROUGH 0233  
L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822  
McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406  
McCARTHY BUILDING CO., INC., 12-R1D4-3458  
NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186  
ORANGE COUNTY SANITATION DISTRICT, 2013-R3D1-0287  
ROEBBELEN CONTRACTING, INC., 12-R2D2-3248  
SIERRA FOREST PRODUCTS, 09-R2D5-3979  
TESORO REFINING & MARKETING, 14-R6D3-9015  
TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095

**LEGISLATION:**

**PENDING LITIGATION:**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for*

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*a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
3. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
4. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
5. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
6. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
7. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
8. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
9. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
10. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
11. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
12. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
13. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
14. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
15. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
16. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
17. HOME DEPOT USA, INC., BS141301 (10-3284)
18. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
19. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
20. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)

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21. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
22. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
23. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
24. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
25. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
26. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
27. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
28. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3<sup>rd</sup> Party)
29. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
30. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
31. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
32. BHC FREMONT HOSPITAL INC, RG13731145 (13-R1D2-0204)
33. IRWIN INDUSTRIES, BS14-9634 (12-R4D3-3276 & 3277)
34. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
35. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
36. MORROW MEADOWS CORP., BS151385 (09-R3D3-2295)
37. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
38. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
39. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)

**APPELLATE COURT:**

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
4. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

A & A INTERNATIONAL SHIPPING, INC., 14-R3D5-3583  
ALL E WASTE INC., 14-R4D3-2358  
ALL SEASONS ROOFING & WATERPROOFING INC., 14-R1D2-3264  
AMERICAN IRONWORKS MANUFACTURING, INC., 14-R4D1-1984  
AMERICAN METALS CORPORATION, 14-R2D1-0019 AND 0020  
AMERIPAN, INC. DBA COMPLETE MECHANICAL SERVICE, 15-R3D3-0077  
THROUGH 0079  
APM TERMINALS PACIFIC LIMITED, 13-R6D2-1776  
ARBORWELL, INC., 14-R3D1-1550  
BCD FOODS INC., 14-R6D2-0567  
BEVILL VINEYARD MANAGEMENT, LLC., 14-R6D7-3191  
BJ'S RESTAURANTS, INC., 14-R3D3-2279 AND 2280  
BLACK CREEK BUILDERS, INC., 15-R1D4-0293 THROUGH 0296  
CARDINAL HEALTH, 14-R4D4-4017 \*  
CBC FRAMING, INC., 14-R1D2-3011  
CBC FRAMING, INC., 14-R1D2-3012  
CEN CAL PLASTERING INC., 14-R6D1-3081  
CLASSIC ORGANIC, 14-R4D3-2877  
CONDOMINIUM ASSOCIATION MANAGEMENT COMPANY DBA CAMCO,  
14-R2D1-0100 \*  
DAVEY TREE SURGERY, 14-R2D3-0228  
DESERT VALLEY CONSTRUCTION & ROOFING, 14-R3D3-0313  
THROUGH 0318  
DMSI STAFFING LLC, 14-R3D3-3464 AND 3465  
DYNAPAC HARVESTING, INC., 14-R6D7-3613 THROUGH 3615  
ECOWISE LANDCARE, 14-R3D3-1919  
EKRA GROUP, INC., 14-R3D1-2687 THROUGH 2689  
ERMICO ENTERPRISES, INC., DBA ERMICO, 14-R6D1-3221 THROUGH 3224

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FILTRATION GROUP LLC, 14-R1D5-1411 AND 1412  
JOSE GARCIA JR. DBA JOSE'S TRANSMISSION, 15-R6D7-0308 AND 0309  
OVIDIO GARZA GARZA, 14-R6D5-3869  
GUSTAVO MARROQUIN GONZALEZ DBA MID-CAL FARM LABOR,  
14-R2D5-2748 THROUGH 2750  
GRIDLEY HONDA, 14-R2D3-3449  
GLIKO CONTRACTING & ESTIMATING INC., DBA GCE INC. 14-R3D2-0122  
THROUGH 0123  
GUARDSMARK, LLC, 14-R1D2-2913 THROUGH 2915  
HARMONY FOODS CORP. DBA SANTA CRUZ NUTRITIONALS,  
15-R1D2-0292  
HOLCOMB ENGINEERING CONTRACTORS, INC., 14-R4D1-1198 THROUGH 1203  
XUAN THANH HUA DBA GREEN & CLEAN COMPANY, 14-R1D4-2704  
THROUGH 2707  
ARTHUR L. HUNOT, DBA HUNOT RETARDANT COMPANY, 14-R2D4-2818  
JOHN BOAK LOGGING, LLC, 14-R2D3-0750 AND 0751  
J.M. CABINETS, INC., 15-R6D1-0205  
K LINE LOGISTICS, 14-R3D5-4217  
L.A. COUNTY SHERIFF DEPT. FACILITIES SERVICE BUREAU, 14-R4D3-4094  
AND 4095  
LBCT LLC., 14-R3D5-3663  
SCOTT LOOMIS DBA LOOMIS CONSTRUCTION, 15-R6D5-0226 AND 0227  
JASON MICHAEL LOWE DBA J M L CONSTRUCTION, 14-R6D5-1948  
AND 1949  
MATT CONSTRUCTION CORP., 14-R4D4-1700  
M. CARATAN, INC., DBA COLUMBINE VINEYARDS, 13-R4D7-3009  
MELKONIAN ENTERPRISES INC. DBA LONESTAR DEHYDRATOR,  
14-R2D5-2686  
METRO CONCRETE PUMPTING, INC., 14-R6D5-2165 THROUGH 2167 \*  
MINING CONSTRUCTION INC., 14-R5D1-0118 AND 0119  
MRB HOLDINGS, INC DBA BURGER KING, 14-R2D1-2759  
M.S. CLARK ROOFING, INC., 14-R1D2-3818 AND 3819 \*  
NATURAL ENVIRONMENTAL PROTECTION COMPANY, 14-R6D2-3744  
THROUGH 3747  
PACIFIC GAS & ELECTRIC COMPANY, 11-R2D4-3219 AND 3220  
PACIFIC TRUCK EQUIPMENT, INC., 15-R4D4-0220  
PALMDALE MOTEL MANAGEMENT INC. DBA DAYS INN & SUITES HOTEL,  
14-R4D3-1987  
PEGASUS FOODS INC., 14-R4D1-1269 AND 1270  
ADAN PEREZ DBA PEREZ CONSTRUCTION, 14-R6D7-3403 AND 3408  
PREMIUM CONCRETE CONSTRUCTION, INC., 15-R6D5-0183  
RAMCO ENTERPRISES LP, 14-R1D2-2971 THROUGH 2972  
RANCHO SANTA FE TRUST, 15-R3D2-0317 AND 0318  
R & K INDUSTRIAL PRODUCTS COMPANY, 14-R6D1-3506 AND 3507  
ROBYN CONSTRUCTION INC., 14-R1D2-3536  
ROSS STORES, INC., MORENO VALLEY DISTRIBUTION CENTER,



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14-R3D3-3466 AND 3467

ADRIAN SANCHEZ, 14-R6D7-3139 AND 14-R6D7-3245

FERNANDO SANCHEZ DBA SANCHEZ FARM LABOR, 14-R2D1-2535

SHEEHAN CONSTRUCTION, INC., 14-R1D2-2552

SEAL METHODS INC., 14-R4D4-3736 AND 3737

SO CAL SANITATION LLC DBA SO CAL INDUSTRIES, 14-R4D4-2409

THROUGH 2411

STAR PLASTIC DESIGN, 14-R3D5-1594 AND 1595

STATE OF CA, CDC&R, CCI-TEHACHAPI, 14-R4D7-2297

SYSCO LOS ANGELES, INC., 14-R4D4-2561

TFC MANUFACTURING, INC., 14-R3D5-2868 THROUGH 2869

TIBBIT'S NEWPORT CORPORATION DBA TIBBET'S PAINTS, 14-R6D5-2566

THROUGH 2569

TRI-DIM FILTER CORPORATION, 14-R6D2-2939 \*

UNIQUE IMPORTS AND EXPORTS, LLC, 14-R3D5-3708 AND 3709

VALLEY ROCK LANDSCAPE MATERIAL, INC., 14-R2D1-3131

W.A. RASIC CONSTRUCTION, 14-R5D2-2401

WELCOME MARKET, INC., DBA 99 RANCH MARKET, 14-R1D2-3066

WEST COAST RECYCLING DBA MISSION RECYCLING, 14-R6D5-2351

WOLF WALL COATINGS, INC., 14-R6D5-1809 THROUGH 1811

YELTON COMPANY, INC., 14-R6D7-3336 THROUGH 3338

ACTION: Member Lowry moved that the Board approve these Orders of Administrative Law Judges. Member Freyman seconded. The Board voted to approve these Orders of Administrative Law Judges. Orders with asterisks are deemed approved as amended.

**PERSONNEL:**

*(Issues regarding staff)*

ACTION: The Board discussed personnel matters.

The Closed Session was adjourned at 12:29 p.m. and the Board returned to the Public Meeting. The Appeals Board incorporated by reference its ACTIONS in the Closed Session, as indicated above. The meeting was adjourned at 12:30 p.m.